

A Resolution

NO. 396-04-2005

A RESOLUTION AUTHORIZING FOR THE CITY ATTORNEY TO FILE SUITS AGAINST VIOLATORS OF CITY ORDINANCES AND STATE STATUTES AFFECTING MUNICIPAL HEALTH AND SAFETY PURSUANT TO CHAPTER 54 OF THE TEXAS LOCAL GOVERNMENT CODE AND CHAPTER 125 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances for the preservation of public safety, relating to materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing fixtures, entrances, or exits; and

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances for the preservation of public health or to the fire safety of a building or other structure or improvement, including, provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances for the preservation of public health for zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme; and

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements; and

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor; and



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WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances relating to dangerously damaged or deteriorated structures or improvements;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances relating to conditions caused by accumulation of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 54 of the Texas Local Government Code to file a lawsuit to enforce City ordinances relating to point source effluent limitations or the discharge of a pollutant, other than from a nonpoint source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 125 of the Texas Practice and Remedies Code to file "nuisance abatement" lawsuits against persons who knowingly maintain a place defined as a common nuisance due to the habitual criminal activity occurring;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 125 of the Texas Practice and Remedies Code to file "nuisance abatement" lawsuits against persons who knowingly maintain a multiunit residential property defined as a common nuisance due to the habitual criminal activity occurring;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 125 of the Texas Practice and Remedies Code to file "nuisance abatement" lawsuits against combinations or criminal street gangs that continuously or regularly associate in gang activities defined as a public nuisance;

WHEREAS, the City of Fort Worth (the "City") through its City Attorney is authorized pursuant to Chapter 125 of the Texas Practice and Remedies Code to file "nuisance abatement" lawsuits against combinations or criminal street gangs for the habitual use of a place defined as a public nuisance due to the gang activity;

WHEREAS, violations of the ordinances and state statutes listed above have a negative impact on the property, health, and safety of the citizens of the City of Fort Worth, and this impact is immediate and ongoing; and



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WHEREAS, the City Attorney must react quickly to violations of these ordinances and state statutes to prevent further loss to property, life and to reduce the impact to the health and safety of the City of Fort Worth Citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:

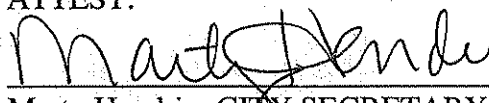
1. The City Attorney is authorized and directed to effect all necessary legal action to enforce its ordinances pursuant to Chapter 54 of the Texas Local Government Code and all necessary legal action to abate nuisances pursuant to Chapter 125 of the Texas Civil Practice and Remedies Code, against all violators of its ordinances and state statutes relating to the property, health, and/or safety of the citizens of the City of Fort Worth, without seeking further City Council approval.
2. The City Attorney is further authorized and directed to take any and all necessary legal action under Chapter 54 of the Texas Local Government Code and all necessary legal action to abate nuisances under the provisions of Chapter 125 of the Texas Civil Practice and Remedies Code and is authorized to file any and all suits and seek any and all injunctive, declaratory relief, civil penalties, and/or any other remedies allowed by law where authorized by state statute and City Code to that end, without seeking further City Council approval.

DULY APPROVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, ON THIS THE 26th DAY OF APRIL 2005.

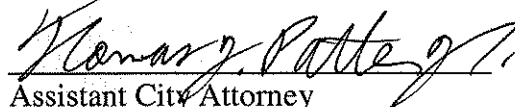
APPROVED:


Mike Moncrief, MAYOR

ATTEST:



Marty Hendrix, CITY SECRETARY

APPROVED AS TO FORM:


Assistant City Attorney

APPROVED
CITY COUNCIL

APR 26 2005


City Secretary of the
City of Fort Worth, Texas


CITY OF FORT WORTH

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 4/26/2005 - Resolution #3196-04-2005

DATE: Tuesday, April 26, 2005
LOG NAME: 12JOINTCH125&54

REFERENCE NO.: G-14766

SUBJECT:

Authorize the City Attorney to File Suits Pursuant to Chapter 54 of Texas Local Government Code and Chapter 125 of the Texas Civil Practice and Remedies Code, and Adopt the Resolution for Such Suits

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Attorney to file any and all lawsuits pursuant to Chapter 54 of the Texas Local Government Code as necessary to enforce the City Code and State statutes and to prevent further violations of City ordinances and State statutes;
2. Authorize the City Attorney to file nuisance abatement lawsuits pursuant to Chapter 125 of the Texas Practice and Remedies Code against persons that maintain or engage in a common or public nuisance within the City of Fort Worth; and
3. Adopt the resolution authorizing such suits.

DISCUSSION:

A large number of violations of the City Ordinances occur that amount to nuisances and potentially could have a high negative impact on the property, health and safety of the citizens of the City of Fort Worth. The City Attorney needs to react immediately to these threats to the City to the fullest extent permitted by law.

Chapter 54 of the Texas Local Government Code authorizes the City to bring suit to address these violations of the City ordinances and State statutes. The City Attorney is seeking permission to file suits to enforce the City Code and State statutes and to prevent further violations of City ordinances and State statutes without seeking further City Council approval.

Chapter 125 of the Texas Practice and Remedies Code authorizes the City Attorney to file lawsuits to abate a common and public nuisances (a nuisance abatement suit). A common nuisance is defined in the statute to exist when certain criminal activities occur habitually on the property. State law defines a public nuisance as a combination (considered "gang activity" under the State statute) or criminal street gang that engages in gang activity. In addition, a public nuisance is defined as the habitual use of a place where gang activities occur. The City Attorney is seeking permission to file suits to abate common and public nuisances without seeking further City Council approval.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by:

Richard Zavala (Acting) (6222)

Originating Department Head:

David Yett (7623)

Additional Information Contact:

T. J. Patterson , Jr. (8715)
